

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

ARBURN RAINEY,

Plaintiff,

Case No. 14-cv-14396

v

Honorable Thomas L. Ludington
Magistrate Judge Elizabeth A. Stafford

CAROLYN W. COLVIN, acting
Commissioner of social security,

Defendant.

**ORDER ADOPTING THE REPORT AND RECOMMENDATION, DENYING
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT, GRANTING DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT, AND AFFIRMING THE DECISION OF THE
COMMISSIONER**

Plaintiff Arburn Rainey filed an application for Disability Insurance Benefits in January of 2012, alleging a disability onset date of March 10, 2006. After his claim was initially denied Rainey timely requested an administrative hearing, which was held on May 2, 2013. On June 5, 2013 the ALJ issued a written decision finding Rainey not disabled. Rainey then appealed to this Court on November 17, 2014, alleging that he should have been found disabled beginning March 10, 2006. *See* Compl., ECF No. 1.

Plaintiff Rainey filed a motion for summary judgment on March 30, 2015. ECF No. 13. The case was stayed on June 9, 2015, and Rainey's prior attorney and his firm's representation was terminated from this case as well as other Social Security cases due to malfeasance on January 6, 2016. The stay was lifted on January 7, 2016, and Rainey was given an opportunity to find substitute counsel and file another motion for summary judgment, which he did not do. *See* ECF Nos. 20-21. Defendant Commissioner then filed a motion for summary judgment on April 7, 2016. ECF No. 24. Rainey did not file a response.

On June 15, 2016 Magistrate Judge Elizabeth A. Stafford issued a report and recommendation. ECF No. 25. Reviewing the Commissioner's decision under a "substantial evidence" standard, the magistrate judge found that the ALJ's determination that Rainey was not disabled was supported by substantial evidence in the record. *Id.* The magistrate judge therefore recommended that Rainey's motion for summary judgment be denied, Defendant Commissioner's motion for summary judgment be granted, and the Commissioner's decision be affirmed.

Although the magistrate judge's report explicitly stated that the parties to this action could object to and seek review of the recommendation within fourteen days of service of the report, neither Plaintiff nor Defendant filed any objections. The election not to file objections to the magistrate judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). The failure to file objections to the report and recommendation waives any further right to appeal.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation, ECF No. 25, is **ADOPTED**.

It is further **ORDERED** that Plaintiff Arburn Rainey's motion for summary judgment, ECF No. 13, is **DENIED**.

It is further **ORDERED** that Defendant Commissioner's motion for summary judgment, ECF No. 24, is **GRANTED**.

It is further **ORDERED** that the Commissioner of Social Security's decision is **AFFIRMED**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: July 25, 2016

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on July 25, 2016.

s/Michael A. Sian
MICHAEL A. SIAN, Case Manager